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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/711,549

11/13/2000

Hrair Aldermeshian

1999-0795

7147

7590

10/19/2004

AT&T IP Law Group
P.O. Box 4110
Middletown, NJ 07748

EXAMINER

DUONG, DUC T

ART UNIT

PAPER NUMBER

2663

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/711,549

Applicant(s)

ALDERMESHIAN ET AL.

Examiner

Duc T. Duong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 12-14 is/are rejected.
- 7) ☒ Claim(s) 2-11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Chase et al (U.S. Patent 6,081,524).

Regarding to claims 1 and 14, Chase discloses a method of transmitting data across network comprising the step of a source (end-user) transmitting Internet Protocol packets (Fig. 7); receiving a plurality of Internet Protocol packets at a first router 919 and encapsulating the IP packets into frame relay frames (Fig. 7 col. 6 lines 65-67), wherein the IP packets contains data and priority information (Fig. 3 col. 8 lines 46-50); transmitting the frame relay frames from the first router to a second router 502 over a

frame relay network 500 in a manner determined by the priority information (located in the layer 4 information) included in the frame relay frames (Fig. 7 col. 7 lines 67 and col. 8 lines 1-2).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shirai in view of Chase.

Regarding to claims 12 and 13, Shirai discloses a computer network comprising a frame network 1 containing a frame relay ingress 10A switch and a frame relay egress switch 10B (Fig. 5A col. 5 lines 30-34); a plurality of permanent virtual circuits coupled between a first router 20 and the frame relay ingress switch 10 that is used to carry frames relay frames (Fig. 1 col. 1 lines 36-50) having priority information corresponding to a plurality of priority levels (Fig. 5A col. 5 lines 47-55); and a plurality of permanent virtual circuits coupled between the frame relay egress switch 10 and a second router 20 that is used to carry frames (Fig. 1 col. 1 lines 36-50) having priority information corresponding to a plurality of priority levels (Fig. 5A col. 5 lines 47-55).

Shirai fails to teach for a first router couples to a first network to receives IP packets having data and priority information and a second router couples to a second

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network to transmits IP packets having data and priority information, wherein the first network, second network, or both networks are Ethernet.

However, Chase discloses a frame relay switched data service comprising a first router 919A and a second router 919B-D for carrying IP packets having data and priority information (Fig. 7 col. 8 lines 46-50), wherein the first and second routers are coupled to IP switches 502 that can provides communication across Ethernet network (col. 6 lines 40-44).

Thus, it would have been obvious to one skilled in the art to employs plurality routers for carrying IP packets with data and priority information as taught by Chase in Shirai's system for routing IP packets over frame relay network. The motivation to do so would have been to provide for a low cost and high performance-switching network.

Response to Arguments

5. Applicant's arguments filed June 23, 2004 have been fully considered but they are not persuasive. On page 6, it is argued with respect to claim 1 that the priority information in layer 4 is part of the data of the IP packets. In reply, claim 1 does not require that the data is in the payload of IP packets and the priority information is in the IP header. In the reference, Chase discloses the IP payload contains priority information and user data, see Fig. 3 col. 8 lines 46-50. Thus, the claim limitation is met. On page 7, it is argued with respect to claim 1 that Chase fails to teach transmitting frame relay frames from the first router to a frame relay network. In reply, it is disclosed on Fig. 7 col. 7 lines 67 and col. 8 lines 1-2 the router 919 transmitted the frame relay across the WAN (frame relay network) 500 based on the layers 3 and 4

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information. And since the layer 4 information contained priority information, the router 919 indeed transmitted the frame relay across the frame relay network in a manner determined by the priority information included in the frame relay frame. Thus, the claim limitation is met. Based on the reasons set forth the rejections are maintained.

Allowable Subject Matter

6. Claims 2-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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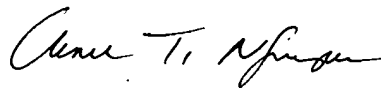
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 571-272-3122. The examiner can normally be reached on M-Th (9:00 AM-6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on 571-272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DD

DD



CHAU NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600